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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,517	12/13/2005	Markus Ali-Hackl	112740-1116	5667
86528	7590	12/16/2009	EXAMINER	
King & Spalding LLP 401 Congress Avenue Suite 3200 Austin, TX 78701			NGUYEN, HUY D	
ART UNIT	PAPER NUMBER			
		2627		
MAIL DATE	DELIVERY MODE			
12/16/2009	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,517	<b>Applicant(s)</b> ALI-HACKL ET AL.
	<b>Examiner</b> HUY D. NGUYEN	<b>Art Unit</b> 2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 16 September 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 15-28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 15-22 and 24-28 is/are rejected.

7) Claim(s) 23 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/US/06)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

I. Applicant's arguments with respect to claims 15-28 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-18, 22, 24, 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitton et al. (US 2004/0028013 A1).

Regarding claims 15, 22, 27-28, Fitton et al. (US 2004/0028013 A1) teaches a communication system comprising: a plurality of common channels that include a primary common control physical channel (e.g., PCCPCH, see par. 33); a plurality of dedicated channels (see par. 31, 33); and a synchronization channel (e.g., SCH, see par. 33); wherein the primary common control physical channel and the synchronization channel are transmitted time multiplexed (see par. 33). Fitton et al. fails to teach wherein the transmit power of dedicated channels is reduced during the transmission of the synchronization channel. However, it has been known that during transmission of the synchronization channel, the dedicated channel is silent. It would have been obvious to have reduced the dedicated channel power during the transmission of the synchronization channel to save resource.

Regarding claim 16, the examiner takes official notice that code multiplex has been well known in the art. It would have been obvious to have used code multiplex to improve network security.

Regarding claim 17, the examiner takes official notice that wide band CDMA has been well known in the art. It would have been obvious to have used wide band CDMA in order to reduce interference.

Regarding claim 18, the examiner takes official notice that UMTS has been well known in the art. It would have been obvious to have used UMTS in order to improve system diversity.

Claim 24 is rejected with the same reason set forth in claim 15.

4. Claims 19-21, 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitton et al. (US 2004/0028013 A1) in view of Jin et al. (US 2005/0159118).

Regarding claims 19-21, 25-26, Fitton does not teach wherein the reduction of the transmit power of the dedicated channels is such that the total transmit power of the used channels is substantially constant. The preceding limitation is taught in Jin (see par. 4). It would have been obvious to have implemented the system of Fitton with the teaching of Jin in order not to exhaust the system resource.

#### *Allowable Subject Matter*

5. Claim 23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY D. NGUYEN whose telephone number is (571)272-7845. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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